(4)

IN THE HIGH COURT OF JUDICATURE M.P.AT JABALPUR

W.P.NO.1547/98

PETITIONERS: 1. State of Madhya Pradesh through Secretary, Department of Education, Govt.of M.P.Bhopal.

2. Principal, Govt.Educational College, Bilaspur.

VERSUS

RESPONDENTS: 1. Ramraj Ozha,S/o Udainath Ozha, R/o Govt.Educational College Campus, Tarwaharchowk,Bilaspur.

2. Presiding Officer, abour Court,Bilaspur.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

(52)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 1547 of 1998

Petitioner : State of Madhya Pradesh & another

Versus

Respondents : Ramraj Ozha & another

Smt. Anju Ahuja, Deputy Govt. Advocate for the petitioners.

Shri M. K. Bhaduri, Advocate for the respondent No.1.

ORAL ORDER

(27th July, 2006)

1. Learned counsel appearing for the petitioners submits that the impugned award dated 27.2.1997 passed by the Labour Court, Bilaspur in Case No. 22/I.D.A./96 (Ref.) has been complied with and the petitioner is continue in service. As such, nothing survives in this matter.

2. With regard to the back wages, admittedly, the respondent No.1 was appointed on daily wages and he was reinstated in service pursuant to the impugned award dated 27.2.1997. The respondent No.1 has not made out a case that he was not employed elsewhere gainfully. There was no pleading to that effect and no finding is recorded by the Labour Court for grant of back wages. Even otherwise, the employee, employed on daily wages basis is not entitled for back wages, as he had not worked on daily wages basis. This Court in the case of **Krishi Upaj Mandi Samiti, Mungeli Vs. Presiding Officer, Labour Court, Bilaspur & another** {2006 (1) CGLJ 483} has held that

"The daily wages employees are paid wages on the basis of the work performed on day to day basis. There is no question of making any payment of back wages. The daily wages employees are required to be engaged on the basis of availability of work and are paid the wages on that basis. Thus, the impugned award to the extent of grant of back wages is not sustainable in law and the same deserves to be set aside."

3. Accordingly, this petition is partly allowed to the extent of grant of full back wages, holding that the respondent No.1 employee is not entitled to back wages. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur